A/59/36

United Nations

Report of the United Nations High Commissioner for Human Rights

General Assembly

Official Records
Fifty-ninth Session
Supplement No. 36 (A/59/36)

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United Nations • New York, 2004

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ISSN 1020-3672

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I. Introduction

1. The present report is submitted pursuant to General Assembly resolution 48/141, establishing the post of United Nations High Commissioner for Human Rights. It provides information on the activities of the Office of the United Nations High Commissioner for Human Rights (OHCHR) over the past year and supplements the reports submitted earlier this year to the Commission on Human Rights (E/CN.4/2004/12 and Add.1-3) and to the Economic and Social Council (E/2004/89).

II. Urgent reporting by the High Commissioner to the Commission on Human Rights on conflict situations

2. It has long been the practice of the Commission on Human Rights to consider the state of respect for human rights and humanitarian law in conflict or urgent situations and the Commission has adopted resolutions and/or decisions on a number of conflict situations at each of its sessions. Treaty bodies and special procedures of the Commission have also addressed such issues and have developed appropriate methods of work in this regard. Similarly, and based on the general understanding of my mandate under General Assembly resolution 48/141, the High Commissioner bears specific responsibility for reporting on alleged grave human rights situations at her own initiative or at the request of competent bodies. Last year, my predecessor reported on an urgent basis to the Security Council in the case of Côte d'Ivoire and to the Commission on Human Rights on human rights violations in Liberia before the change of Government (E/CN.4/2004/5). During the reporting period, the Acting High Commissioner embarked on similar initiatives concerning Iraq and the Sudan (Darfur).

3. It is my firm conviction that such urgent reporting to the Commission on Human Rights and/or other United Nations bodies lies at the core of the High Commissioner's mandate as enshrined in General Assembly resolution 48/141. It is irreplaceable, both in terms of providing appropriate and timely information to United Nations bodies and of calling for proper and urgent remedial action by competent bodies when circumstances so require. It is my intention, if and when necessary, on the basis of these precedents, to draw attention to urgent situations and to invite those concerned to take the necessary measures to remedy gross and massive human rights violations.

4. The following is an account of relevant developments in the period under review.

5. **Sudan (Darfur).** The urgent report on the human rights situation in the Darfur region of the Sudan (E/CN.4/2005/3) was a summary of the findings of two missions dispatched by my predecessors in response to reports of allegations of serious human rights violations. The report highlighted the grave humanitarian consequences of the situation in Darfur and emphasized that numerous human rights violations had been committed by the Janjaweed militia with the active support of the regular army. The report described the responsibilities of the Government of the Sudan under international human rights and humanitarian law and outlined a disturbing pattern of disregard for basic principles of human rights and humanitarian law. The rebel forces also appeared to have violated human rights and humanitarian

law, but the extent to which this was happening was difficult for the missions to ascertain. The report concluded that there was clearly a reign of terror in Darfur and that the missions had encountered consistent allegations of indiscriminate attacks by government and militia forces against civilians, rape and other serious forms of sexual violence, destruction of property and pillage, forced displacements, disappearances, and persecution and discrimination.

6. The Government of the Sudan was called upon, at the highest levels, publicly and unequivocally to condemn all violations of human rights and international humanitarian law, investigate those violations and bring the perpetrators to justice. In addition, the missions recommended, inter alia, that (a) the Janjaweed and other militias should immediately be disarmed and disbanded, and that humanitarian workers should be given full and unimpeded access to Darfur; (b) the Government should pursue a policy of national reconciliation, end impunity, and ensure the rule of law and the protection of minorities; (c) refugees and displaced persons should be permitted to return to their lands and homes voluntarily, and should receive restitution or fair compensation for their losses; (d) an international commission of inquiry should be established to examine the situation, identify the crimes that have been committed and their perpetrators, assess the responsibility of the authorities and recommend measures for securing accountability.

7. The Acting High Commissioner also reported directly to the Security Council on the situation of human rights in Darfur.

8. **Iraq.** The situation of human rights in Iraq has been a subject of concern in the Commission on Human Rights for a number of years. Its Special Rapporteur monitored the situation for over a decade and extensively documented violations committed by the regime of Saddam Hussein. The last Special Rapporteur submitted a report on past violations of human rights in Iraq to the Commission at its sixtieth session (E/CN.4/2004/36 and Add.1). Although the mandate of the Special Rapporteur was not renewed, the Acting High Commissioner decided that a report should be submitted to the Commission on the present situation of human rights in Iraq, particularly in light of increasing international scrutiny of violations of human rights and humanitarian law in conflict situations. An OHCHR team travelled to Amman in May 2004 to gather information for the report and met with more than 30 Iraqis. Further to reports in the media of ill-treatment and torture at Abu Ghraib prison, the witnesses also referred to arbitrary arrests and detentions. Other issues raised included restrictions on access to a range of economic and social rights (including education and health care), and increased harassment and mistreatment of women.

9. The report (E/CN.4/2005/4) was released on 4 June 2004. It contained a number of critical recommendations that guide OHCHR in its planning of human rights activities in Iraq. These include: (a) the promulgation by the Interim Iraqi Government of a human rights policy for Iraq; (b) the establishment of a national human rights institution; (c) the establishment of an Iraqi legal and judicial reform commission to recommend reform of Iraqi laws that are inconsistent with international human rights standards; (d) an assessment of the need to establish an Iraqi truth and reconciliation commission; (e) the strengthening of the Ministry of Human Rights; (f) the extension of support to Iraqi civil society organizations for the promotion and protection of human rights; and (g) the provision of human rights

training for officials of the Government of Iraq, judges, prosecutors and lawyers, as well as representatives of non-governmental organizations (NGOs) and civil society.

III. Sixtieth session of the Commission on Human Rights

10. The sixtieth session of the Commission on Human Rights (15 March-24 April 2004) was attended by over 5,000 participants, including representatives of Member States, intergovernmental organizations and NGOs, United Nations entities and national human rights institutions. The high-level segment attracted a record 88 ministerial-level participants and saw an informal initiative by the Minister for Foreign Affairs of Switzerland resulting in the adoption by women foreign ministers of a declaration on violence against women. Interactive dialogues with mandate-holders of the Commission's special procedures and representatives of NGOs, as well as focused meetings with representatives of national human rights institutions highlighted the increasing importance of such actors in the work of the Commission. The Commission also commemorated the International Day of Reflection on the 1994 Genocide in Rwanda and heard the Secretary-General announce his Action Plan to Prevent Genocide.

11. The Commission adopted a record 120 resolutions, decisions and Chairperson's statements on both country-specific situations and on a broad range of cross-cutting human rights issues, such as HIV/AIDS, gender equality, violence against women, rights of the child, disabilities, poverty eradication, the right to development and terrorism. Reflecting the increasing politicization within the Commission, however, the sixtieth session saw not only a marked increase in block voting by regional groups, but also a general increase in voting on proposals. Country-specific resolutions remained a concern for some countries and, continuing the trend of previous years, consideration of such resolutions was increasingly moved from agenda item 9, "Question of the violation of human rights and fundamental freedoms in any part of the world", to item 19, "Advisory services and technical cooperation in the field of human rights". Despite these challenges, the Commission established five new country mandates, on the Democratic People's Republic of Korea (resolution 2004/13), Belarus (resolution 2004/14), Chad (resolution 2004/85) and the Sudan (decision 2004/128), and established a mandate on Uzbekistan under the confidential procedure under Economic and Social Council 1503 (XLVIII).

12. Creating mechanisms for the protection of victims of human rights abuses continued to be one of the main achievements of the Commission. In resolution 2004/87, entitled "Protection of human rights and fundamental freedoms while countering terrorism" — a prominent issue at the sixtieth session — the Commission decided to designate, for a period of one year, an independent expert to assist the High Commissioner in ongoing work on the issue, taking fully into account the study requested by the General Assembly in resolution 58/187, as well as the discussions in the Assembly and the views of States thereon. In addition to terrorism, the Commission established a new mandate of Special Rapporteur on trafficking in persons, especially women and children, to focus on the human rights aspects of the victims of trafficking (decision 2004/110). The Commission also requested the Secretary-General to appoint an independent expert, for a period of one year, to update the 1997 Set of Principles for the protection and promotion of human rights through action to combat impunity (resolution 2004/72).

13. At its substantive session of 2004, the Economic and Social Council approved all the new mandates proposed by the Commission.

14. The Commission also continued to take important initiatives in the promotion of human rights. It decided to establish a high-level task force on the implementation of the right to development, as recommended by the Working Group on the Right to Development (resolution 2004/7); endorsed the recommendation of the Sub-Commission on the Promotion and Protection of Human Rights to establish a voluntary fund on minority-related activities to facilitate the participation of minority representatives and experts from developing countries in human rights meetings (decision 2004/114); adopted a new resolution relating specifically to neo-Nazism (resolution 2004/16); and recommended, as a follow-up to the United Nations Decade for Human Rights Education, 1995-2004, that the General Assembly proclaim at its fifty-ninth session a world programme for human rights education, to begin on 1 January 2005 (decision 2004/121).

15. Finally, as part of the ongoing process of reform that began in 1998, the Commission continued to re-examine its working methods over the past year, even though the reform proposals put forth by the Expanded Bureau this year did not find consensus and were not endorsed in the plenary session. The Commission, as the principle United Nations body dealing with human rights matters, should further the reform process in order to respond more adequately to the challenges it faces. Among the issues of concern mentioned by my predecessors (see, inter alia, A/57/36, paras. 55-58) were the marked increase in block voting by groups and the preference for taking no action if consensus was not possible. More recently, questions have been raised regarding the precise role to be played by the Commission in denouncing gross human rights violations in countries, and the interconnection between items 9 and 19 of its agenda. Such matters should be addressed while bearing in mind the critical role the Commission has traditionally played in dealing with massive violations of human rights under Council resolutions 1235 (XLII) or 1503 (XLIII). This historical background, as well as the ideas evoked by the Secretary-General in his addresses to the Commission and in his reports to the General Assembly, and the proposals and initiatives put forth by my predecessors, should serve as the setting for any new initiatives.

IV. Activities of the United Nations human rights bodies

Sub-Commission on the Promotion and Protection of Human Rights

16. The Sub-Commission, a subsidiary body of the Commission on Human Rights consisting of 26 independent experts, concluded its fifty-sixth session, having considered more than 25 reports by its members and having adopted 53 resolutions and decisions. The highlights of the session include a decision to establish a sessional working group next year with a mandate to elaborate detailed principles and guidelines for the protection of human rights when combating terrorism (2004/109), and the extension for a further three years of the mandate of the sessional working group on the working methods and activities of transnational corporations (decision 2004/102). The Sub-Commission also examined three final reports prepared by its Special Rapporteurs on the promotion of the realization of

the right to drinking water and sanitation (E/CN.4/Sub.2/2004/20), indigenous peoples' permanent sovereignty over natural resources (E/CN.4/Sub.2/2004/30 and Add.1), and terrorism and human rights (E/CN.4/Sub.2/2004/40).

17. As the Sub-Commission no longer adopts country-specific resolutions, decisions and Chairperson's statements (pursuant to Commission decision 2000/109), a process was initiated to review and reform the Sub-Commission's work under item 2 of its agenda relating to violations of human rights in all countries.

18. Continuing to perform its "think tank" function and to act as a testing ground for new ideas, the Sub-Commission initiated the preparation of working papers and other documents on such new subjects as accountability under international human rights law of non-State actors, and evaluation of the content and delivery of technical cooperation in the field of human rights. Work will also continue on such issues as human rights and the human genome; discrimination based on work and descent; the effects of debt on human rights; discrimination against convicted persons who have served their sentence; women in prison; the impact of corruption on human rights; the administration of justice through military tribunals; the difficulty of establishing guilt and/or responsibility with regard to crimes of sexual violence, and others. The report of the Sub-Commission on its fifty-sixth session (E/CN.4/2005/2-E/CN.4/Sub.2/2004/48) will be submitted to the Commission at its sixty-first session.

19. Last year, the Acting High Commissioner delivered a statement at the opening of the fifty-fifth session of the Sub-Commission, in which he raised a number of questions and offered some suggestions on the role and status of the Sub-Commission in present and future circumstances. In this regard, new initiatives on the Sub-Commission's working arrangements and organization of work were launched or discussed by members during the fifty-sixth session. All such initiatives deserve to be carefully studied with a view to strengthening the reform process and, ultimately, improving the Sub-Commission's working methods.

Treaty bodies

20. A seventh human rights treaty body, the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families, met for the first time in March 2004.

21. As part of a continuing process to review and enhance the work of the treaty body system, consultations on ways to foster cooperation among human rights treaty bodies and to enhance implementation of human rights instruments at the national level have continued among Member States, United Nations human rights treaty bodies, the United Nations system, and non-governmental organizations and other parts of civil society.

22. Increased cooperation among treaty bodies has facilitated efforts to develop common working methods, in particular follow-up procedures, and harmonized approaches to the submission of overdue reports. The treaty bodies have agreed to continue these efforts (see A/59/254). The treaty bodies have also emphasized the importance of follow-up workshops and seminars, and the Secretariat has undertaken such activities at the request of States parties.

23. At both the second inter-committee meeting and the 15th meeting of chairpersons of human rights treaty bodies (see A/58/350), the Secretariat was requested to prepare draft guidelines for a common core document and treaty-specific targeted reports (HRI/MC/2004/3) for consideration at the third inter-committee meeting and the 16th meeting of chairpersons in June 2004. Although making clear that further development was required, both meetings welcomed the draft guidelines and recommended that they be forwarded to each human rights treaty body for discussion and comments. A participant in the inter-committee meeting was nominated to act as rapporteur on this matter and OHCHR was requested, in consultation with the Division on the Advancement of Women/Department of Economic and Social Affairs, to continue to work on the guidelines and to incorporate the various comments and suggestions made by the treaty bodies, States parties, the United Nations system, non-governmental organizations, national human rights institutions and other parts of civil society, with a view to producing revised guidelines for submission to the fourth inter-committee meeting in June 2005. Both meetings agreed that States parties wishing to prepare reports using the draft guidelines should be entitled to do so, but also encouraged them to seek technical assistance from the Secretariat in this regard (see A/59/254).

Special procedures

24. Pursuant to Economic and Social Council resolution 1235 (XLII) of 6 June 1967, a number of special procedures have been established to deal with allegations of human rights violations. They examine, review and publicly report on major human rights violations throughout the world (thematic mandates), or on human rights situations in specific countries or territories (country mandates). Considered pillars of the United Nations human rights protection system, there are presently 41 special procedures mandates of the Commission on Human Rights (27 thematic and 14 country-oriented), which are served by individual experts acting in their personal capacity.

25. In addition, special procedures communicate with Governments when they receive information alleging actual or impending individual human rights violations or general situations of concern. These communications, together with Governments' responses, are reflected in summary form in reports submitted to each session of the Commission and have an important protection impact. During the reporting period, special procedures issued through the OHCHR Quick Response Desk over 900 urgent appeals and some 570 letters of allegation to 119 Governments seeking the protection of persons or groups in need. Over 60 per cent were joint communications.

26. Through their specific thematic studies, special procedures play a crucial role not only in clarifying and elaborating the content and implications of human rights norms and standards, but also in identifying specific areas in need of reform.

27. The special procedures also play a crucial role with regard to early warning and preventive action. Through their very broad information networks, they are in a privileged position to identify an impending human rights crisis and to recommend the appropriate remedial or preventive action. When needed, they can quickly alert the relevant United Nations bodies, including the Security Council and the General

Assembly. For instance, in June 2004 the Special Rapporteur on extrajudicial, summary or arbitrary executions briefed members of the Security Council in an informal meeting about her recently completed mission to the Sudan, one of whose specific focus areas was the unfolding crisis in the Darfur region in the west of the country.

28. The 11th meeting of special rapporteurs/representatives, independent experts and chairpersons of working groups of the special procedures of the Commission on Human Rights and of the advisory services programme (mandate-holders) was held in Geneva from 21 to 25 June 2004. Twenty-six mandate-holders participated and discussed a variety of issues, including measures that could be taken to enhance the effectiveness of the special procedures system, as well as ways and means of integrating their work into the activities of OHCHR, particularly through its field presences, technical cooperation activities and work with national institutions, and into the wider United Nations system in accordance with the Secretary-General's reform agenda (see E/CN.4/2005/5).

29. During the reporting period, over 60 countries were visited by mandate-holders within the framework of their fact-finding activities. During their missions, mandate-holders seek to engage in a constructive dialogue with Governments, United Nations bodies, international agencies, non-governmental organizations and other relevant actors. The ultimate aim of such visits is to enhance national-level capacities for human rights promotion and protection. It is my intention to remind all stakeholders of the fundamental importance of effective cooperation with mandate-holders — an important component of which is the issuance of standing invitations to them and/or positive responses to their requests to visit a particular country or group of countries. In this regard, it is a welcome fact that the number of countries that have decided to extend standing invitations has grown continuously, and reached 50 as of July 2004. I hope that this number will increase significantly before the next session of the Commission on Human Rights.

V. Standard-setting activities

Options regarding the elaboration of an optional protocol to the International Covenant on Economic, Social and Cultural Rights

30. OHCHR provided support to the open-ended working group on a draft optional protocol to the International Covenant on Economic, Social and Cultural Rights at its first session, held in February/March 2004. In particular, OHCHR organized two expert panels — one panel of special rapporteurs and another panel of treaty body experts — to make presentations to the working group on technical issues. Representatives of the Office also participated in a workshop held in Lisbon in May 2004 (organized by the International Commission of Jurists and the Government of Portugal) on the question of an optional protocol to the Covenant and the working group.

A draft legally binding normative instrument for the protection of all persons from enforced disappearance

31. OHCHR continued to provide support to the open-ended working group of the Commission on Human Rights charged with elaborating a draft legally binding normative instrument for the protection of all persons from enforced disappearance. In addition to organizing the second session of the working group in January 2004, the Office also assisted its Chairperson in organizing informal consultations in September 2003.

32. Since the beginning of the negotiation process in January 2003, OHCHR has provided members of the working group with technical advice on substantive issues, as required, with a view to ensuring that existing international human rights standards, as well the jurisprudence, practice and views of competent United Nations human rights bodies, are duly taken into consideration by the drafters.

Draft United Nations declaration on the rights of indigenous peoples

33. The General Assembly, in successive resolutions, encouraged Governments to adopt a declaration on the rights of indigenous people before the end of the International Decade of the World's Indigenous People in December 2004. However, progress on the draft declaration in the working group charged with its elaboration has been slow and, as of 1 September 2004, only two of the 45 articles had been adopted at first reading. On the basis of Commission resolution 2004/59, the working group will hold an additional week of meetings before the end of the year (from 29 November to 3 December), but it is nevertheless unlikely that this deadline will be met. Nevertheless, efforts are being made by States to narrow their differences and present common positions. This, together with greater flexibility on behalf of non-governmental organizations in relation to propositions that may clarify or strengthen the document, may be seen as positive signs. Under these circumstances, the General Assembly, in recognition of the complexity of the undertaking, may wish to set a new target date for the eventual adoption of the declaration.

Proposals for a convention on the rights and dignity of persons with disabilities

34. OHCHR continued to provide support to the Ad Hoc Committee established by the General Assembly in its resolution 56/168 "to consider proposals for a comprehensive and integral international convention to protect and promote the rights and dignity of persons with disabilities". In particular, the Office provided technical advice and assistance on substantive issues to the Chair and the secretariat of the Ad Hoc Committee. Its efforts in this context aim at enhancing the equal and effective enjoyment of all human rights and fundamental freedoms by persons with disabilities, and at ensuring that drafting efforts build upon existing human rights norms and standards (as set out in the Universal Declaration of Human Rights, the seven core human rights treaties and other human rights instruments) and the work carried out by United Nations human rights treaty bodies with respect to disability,

in particular, general comment No. 5 of the Committee on Economic, Social and Cultural Rights. OHCHR also encourages participation by national human rights institutions and NGOs (in particular those established by persons with disabilities) in the ongoing negotiation process.

VI. Human rights and development

35. The international community has come to acknowledge the strong links between human rights and human development. The right to development, as declared by the General Assembly, underlines the significance of the human being as an active participant and beneficiary of development, thus expanding the concept of development beyond traditional notions of economic growth and progress. The Vienna Declaration and Programme of Action underscore in this regard that democracy, development and respect for human rights and fundamental freedoms are interdependent and mutually reinforcing. The recognition of the indivisibility of economic, social and cultural rights, on the one hand, and civil and political rights, on the other, transforms the entire range of human rights into an indispensable and powerful tool for achieving sustainable human development.

36. As requested by Member States, OHCHR has consistently sought to provide to the mechanisms established by the Commission on Human Rights a high level of support for the realization of the right to development. Following the request of the Commission in its resolution 2003/83, OHCHR organized a high-level seminar on the right to development, entitled "Global partnership for development", on 9 and 10 February 2004, to which relevant actors from the human rights, trade, financial and development fields were invited to review and identify effective strategies for mainstreaming the right to development into the policies and operational activities of major international organizations (see E/CN.4/2004/23/Add.1).

37. The outcomes of the seminar provided critical input to the deliberations of the Working Group on the Right to Development, which held its fifth session from 11 to 20 February 2004. The Working Group's recommendation to the Commission to establish a high-level task force on the right to development was endorsed by the Commission in its resolution 2004/7. The task force will comprise high-level representatives from trade, finance and development organizations and five experts with diverse backgrounds and with practical experience related to the implementation of the right to development. The high-level task force will assist the Working Group to fulfil its mandate (outlined in Commission resolution 1998/72) by facilitating a collective approach to analysing progress, disseminating best practices and considering possible solutions for the implementation of the right to development. The innovative spirit in which these new approaches to the right to development were envisaged and developed is a factor which I very much welcomed and will further support in the months and years to come.

38. As mandated by Commission resolution 2003/83, research support was also provided by OHCHR to the Sub-Commission for the preparation of a concept document establishing options for the implementation of the right to development. In 2004, OHCHR made available to the Sub-Commission five independent studies which it had commissioned on the following issues: "The right to development: study on existing bilateral and multilateral programmes and policies for development partnership" (E/CN.4/Sub.2/2004/15 and Corr.1); "The legal nature of

the right to development and enhancement of its binding nature" (E/CN.4/Sub.2/2004/16); "Mainstreaming the right to development into international trade law and policy of the World Trade Organization" (E/CN.4/Sub.2/2004/17); "Study on policies for development in a globalizing world: What can the human rights approach contribute?" (E/CN.4/Sub.2/2004/18); "Towards a human rights approach to development: concepts and implications" (E/CN.4/Sub.2/2004/19).

39. As part of its commitment to strengthening the human rights foundations of United Nations development activities, OHCHR continues to develop tools and mechanisms to support the work of United Nations country teams at the national level. In particular, OHCHR shares country profiles, which contain various human rights-related information, including recommendations produced by United Nations human rights mechanisms, so as to facilitate the preparation of the United Nations joint programming instruments — the common country assessment and the United Nations Development Assistance Framework (CCA/DAF). In collaboration with the United Nations System Staff College and the United Nations Development Group (UNDG), OHCHR organizes or participates in training events at country (10 during the reporting period) and/or regional levels to increase awareness of the linkages between human rights and human development, particularly among United Nations development programmers and their counterparts in Government and civil society.

VII. Developing national capacities in the field of human rights

Activities of the Office of the High Commissioner for Human Rights at the country level

40. Underlining its promotion and protection mandate, the work of OHCHR at the country level is aimed at the realization of international human rights norms and, in particular, the translation of such norms into laws and practices at the national level. Within this framework, the activities of OHCHR at the country level are wide ranging and multifaceted and may include technical cooperation, support to the work of national human rights institutions, setting up and backstopping field presences (including human rights components of peace missions), support to country rapporteurs or independent experts of the Commission on Human Rights, as well as reporting to the High Commissioner on the situation of human rights.

41. There has been a steady expansion of country-specific and operational activities in recent years as a result of an increase in new mandates of the Commission on Human Rights, requests for technical assistance, as well as growing demands for OHCHR to react to emergencies and urgent requests. To date, some 40 technical cooperation projects have been undertaken by the Office worldwide at the request of Member States. Such projects focus primarily on the following substantive areas: constitutional and legislative reform, national institutions, administration of justice, human rights education, training of key professional groups (judges, lawyers, prosecutors, police, prison administrators) and support to national parliaments. Several of these projects have a field-based programme manager (often within the United Nations Development Programme (UNDP)), while others are undertaken in cooperation with members of United Nations country

teams. Expenditure for technical cooperation projects has increased from an average of US$ 4.4 million in 2000 to over US$ 14 million in 2003.

42. At the same time, the OHCHR field presences have increased from one in 1992 to the present total of 42. They include: (a) OHCHR stand-alone missions (Burundi, Democratic Republic of the Congo, Colombia, Cambodia, Bosnia and Herzegovina, Serbia and Montenegro); (b) human rights components of United Nations peace missions (Abkhazia/Georgia, Afghanistan, Central African Republic, Côte d'Ivoire, Democratic Republic of the Congo, Ethiopia/Eritrea, Guinea-Bissau, Iraq, Liberia, Sierra Leone, Tajikistan, Timor-Leste); (c) regional representatives (Addis Ababa, Almaty/Tashkent, Bangkok, Beirut, Pretoria, Santiago, Yaoundé); and (d) technical cooperation/human rights advisers (Angola, Azerbaijan, El Salvador, Guatemala, Guyana, Haiti, Mexico, Mongolia, Nepal, Nicaragua, Palestine, Philippines, Solomon Islands, Somalia, Sri Lanka, Sudan).

Support to peace missions

43. Human rights support for and cooperation with United Nations peace missions has rapidly become one of the core functions of OHCHR, particularly as the Security Council systematically includes human rights provisions in its resolutions pertaining to peacekeeping and peace-building. OHCHR is currently engaged in supporting the human rights units of 14 United Nations peace missions, mostly in Central and Western Africa, as well as in Central Asia. This development reflects the increasing recognition of human rights as a central and essential component of conflict resolution. Building on this momentum, OHCHR is strengthening its capacity and readiness to participate actively as a partner in United Nations conflict-resolution efforts and to ensure that human rights elements are fully and explicitly integrated when peace agreements are negotiated and drafted. The Office's integrated approach to this important area of work involves and mobilizes a range of in-house resources and expertise in related fields, such as transitional justice (including truth and reconciliation mechanisms), the rule of law, humanitarian action and development.

Human rights and humanitarian action

44. Closely connected to its work in the fields of peacekeeping and peace-building, OHCHR is also working to enhance its role in the area of humanitarian action, inter alia by strengthening its presence and active participation in key inter-agency forums such as the Inter-Agency Standing Committee and the Executive Committee on Humanitarian Affairs. These organs, together with United Nations system-wide planning and programming tools, provide important entry points for OHCHR to ensure that United Nations policies on humanitarian action are grounded in human rights standards and principles. Together with other partner agencies, OHCHR is also taking an active role in system-wide efforts to overcome the protection gap in humanitarian emergencies, in particular with regard to internally displaced persons. The Office's experience with various United Nations peace missions also serves as a good basis for further analysis of the interlinkages between United Nations military peacekeepers and humanitarian actors on the ground. Efforts are under way to develop the Office's capacity to take on an advisory and capacity-building role in transitional situations evolving from a humanitarian to a

development-led response. To support such efforts, information on lessons learned and best practices gained through the Office's work with humanitarian, development and peacekeeping partners are being collected and analysed.

National institutions

45. The Office continued to devote significant efforts to the development and strengthening of national human rights protection systems. As part of these efforts, OHCHR cooperates with some 70 national human rights institutions worldwide and works with Governments and external partners (such as UNDP) regarding the further establishment and strengthening of national institutions. Over the past year, its main priorities in this area have included: (a) enhancing support to national institutions; (b) finding effective ways of ensuring that the experience of national institutions is utilized at the international level, including by the Commission on Human Rights, treaty bodies and special procedures; (c) providing advice on the establishment and strengthening of national institutions in accordance with the Paris Principles (General Assembly resolution 48/134); (d) enhancing guidance and advice to OHCHR colleagues and to United Nations country teams on both national institutions and quality control with respect to the application of the Paris Principles; (e) providing assistance and support to the regional networks of national institutions; and (f) giving priority to the role of national institutions in conflict prevention, prevention of torture, human rights and counter-terrorism.

The Secretary-General's reform agenda

46. Since the late 1990s, there has been increasing recognition of the added value and useful role of human rights in supporting and complementing other core activities of the United Nations system. The Secretary-General's first reform agenda of 1997 defined human rights as both a priority and a cross-cutting issue of concern for the entire United Nations system. Human rights are now being increasingly introduced in United Nations policy and programming. The 2000 report of the Panel on United Nations Peace Operations (the "Brahimi report") (A/59/305-S/2000/809) was instrumental in introducing new thinking into United Nations peacekeeping missions, including the integration of human rights elements in both the planning stages and staffing tables of new missions. A similar milestone in the development world was the UNDP World Development Report 2000, which was entirely devoted to the concept of human rights in development.

47. The second reform programme launched by the Secretary-General in his report "Strengthening the United Nations: an agenda for further change" (A/57/387 and Corr.1) introduces a number of additional elements with direct bearing on the work of OHCHR and its role in the United Nations system. In chapter II, section B, entitled "Strengthening of human rights", the report lists four actions aimed at achieving the stated objective. Action 2 focuses on supporting human rights at the country level and envisages the following actions by OHCHR: (a) support to United Nations country teams, inter alia through the deployment of human rights advisers; (b) linking the United Nations human rights machinery with country work; and (c) enhancing the human rights capacities of national partners.

48. The implementation of the action 2 programme significantly impacts on the role of OHCHR in supporting and leading United Nations human rights mainstreaming efforts at the country level and in enhancing the relevance of the international human rights system to the work of United Nations and other international/regional partners. It also provides new direction and stronger foundations to OHCHR field and technical cooperation activities worldwide and enhances the links between international standards and the activities undertaken by the United Nations system at the country level. While maintaining a focus on its core protection mandate, OHCHR is also actively pursuing activities in the fields of human rights promotion and capacity- and infrastructure-building. In doing so, however, the Office is increasingly using its limited financial and human resources to guide and advise its cooperation partners instead of implementing such activities directly, except when no one else is in a position to do so. As a result, OHCHR increasingly carries out its work with and through partners — especially the United Nations country teams, national human rights institutions or other national partners. This emphasis on creating and developing the capacities of United Nations and non-United Nations partners to undertake human rights work on their own is a significant shift from the direct delivery of services that characterized OHCHR field work in the past.

49. Additionally, OHCHR, together with development and humanitarian agencies and programmes, has developed a plan of action that should significantly enhance and better focus assistance to Member States, at their request. United Nations country teams are at the heart of this endeavour. OHCHR has been actively working with United Nations partners at the national level to strengthen development cooperation from a human rights perspective. For example, through the joint Human Rights Strengthening (HURIST) programme conducted with UNDP, human rights-based development policies and programming methodologies have been developed in areas such as poverty reduction strategies, environment and energy use, and rights-based reviews of UNDP country programmes. These policies and methodologies are actively being piloted in UNDP country offices in all regions. Through empowering people to claim their rights and strengthening accountability in development policy-making and programming, HURIST aims to show how a "rights-based approach" to development can improve both human rights and development outcomes on a more coherent and sustainable footing. The future directions of HURIST will be determined by a final evaluation of the programme in 2005.

Strategies of the Office of the High Commissioner for Human Rights regarding its presence in the field

50. In order to achieve its operational objectives at the field level, OHCHR is reviewing the profiles of its larger stand-alone offices that have more complex mandates, often involving both human rights protection and promotion activities. Without compromising the independence of its mandated activities, the Office is increasingly carrying out its capacity-building work out as joint programmes with partners in the United Nations country team. This form of cooperation with development partners has in many cases allowed the Office to focus more on its core protection role at the country level. At the same time, it is recognized that OHCHR

needs to retain and further develop its capacity to establish and maintain full-fledged stand-alone operations, if and when called upon to do so by Member States.

51. In addition, it is crucially important that OHCHR field presences be limited in time and in scope; that missions have a beginning and an end; and that the end of a mission is predicated upon the achievement of some concrete benchmarks. These include the creation of the necessary human rights capacities and infrastructures at the country level — i.e. an independent national human rights institution — as well the ability of partners, particularly national ones and the United Nations country teams, to carry out further human rights work on their own. Decisions to determine the point at which OHCHR field missions have accomplished their objectives therefore depend on the achievement of such core benchmarks. Once the above-mentioned conditions have been met, responsibilities can gradually be transferred from OHCHR to its international and national partners.

52. OHCHR now has seven regional offices which serve as resource facilities for Governments, civil society organizations and United Nations country teams of the whole region/subregion. The regional offices focus not only on responding to Governments' requests for advice, but also on empowering the United Nations country teams. This is done, inter alia, by establishing thematic working groups on human rights within the United Nations country teams in the countries where they are based, developing planning tools for United Nations human rights-related programmes and facilitating follow-up action and integration of recommendations by United Nations human rights bodies in the overall United Nations programming at the country level.

53. As a general rule, regional representatives give priority to those countries in which OHCHR does not maintain a field presence and to those situations where human rights action may contribute constructively to United Nations support to peace processes. For instance, last year, in the Asian and Pacific Region, OHCHR deepened its involvement in the peace processes in Sri Lanka and Nepal, particularly through capacity-building and support to national human rights institutions. The regional offices also increasingly take on key liaison and technical support functions in the implementation of action 2, and support capacity-building programmes at the country level. This allows OHCHR to bring its work closer to the country level and also to take a more active role as a partner in the main United Nations regional forums. With stronger regional presences, OHCHR is now well placed to work with and through the regional support mechanisms for CCA/UNDAF set up by the UNDG core agencies. To complement and support its regional offices, OHCHR has also established a number of subregional presences. These have often enabled the Office to carry out projects and activities in a more focused way, closer to the country level.

54. OHCHR is now in the process of deploying an increasing number of human rights advisers within United Nations country teams, as and when requested by United Nations resident coordinators. To date, OHCHR has recruited human rights advisers based in Nepal, Sri Lanka, Haiti and Guyana. This form of engagement has proved an effective way to develop human rights capacity within the United Nations country teams and to support the human rights elements of peace processes in conflict or post-conflict situations.

55. Following the tragic events in Baghdad in August 2003, staff security in the field has become a top priority for the United Nations and for OHCHR. The

OHCHR Security Unit coordinates, in close consultation with the Office of the United Nations Security Coordinator, all issues related to the security of OHCHR staff at headquarters and in the field. Priorities in this area include strengthening security awareness and training in OHCHR and security support to all OHCHR field activities, and keeping pace with developments in security management systems.

VIII. Specific human rights issues

56. During the reporting period, a number of activities were undertaken and results achieved in some of the thematic areas mentioned in my predecessors' reports to the General Assembly and to the Commission on Human Rights. The following is an account of such developments in key areas of the activities of OHCHR.

Racism, racial discrimination, xenophobia and related intolerance

57. The activities of OHCHR regarding the struggle against racism, racial discrimination, xenophobia and related intolerance are currently being strengthened and looked at afresh. Whatever controversies might have arisen in the aftermath of the World Conference, it is of crucial importance for the international community to rally around the noble goal of fighting these evils and overcoming whatever challenges may arise in these areas. Concrete steps and measures are needed and action must be taken by Governments at the international, regional and national levels, and they must be able to have recourse to the experience, expertise and good will of all international key players, including the United Nations system, regional organizations and non-governmental organizations. The work carried out by the Intergovernmental Working Group on the Effective Implementation of the Durban Declaration and Plan of Action, the Working Group of Experts on People of African Descent and the Group of Eminent Persons are therefore being actively supported by OHCHR.

Globalization

58. OHCHR submitted to the sixtieth session of the Commission on Human Rights an "analytical study of the High Commissioner for Human Rights on the fundamental principle of non-discrimination in the context of globalization" (E/CN.4/2004/40). The study considered the principle of non-discrimination as understood under international human rights law and international trade law. The report noted that the two principles are in some ways quite different. While the human rights principle is intrinsically linked to the principle of equality — not merely restricted to formal equality, but also extending to substantive equality — the trade principle of non-discrimination is primarily directed towards reducing trade protectionism and improving international competitive conditions and does not seek to achieve substantive equality. The report therefore considers how the human rights principle can inform the application of the trade principle of non-discrimination, particularly in the areas of government procurement, agricultural trade and social labelling, as a means of achieving greater levels of equality and fairness in the context of globalization. OHCHR also contributed the chapter entitled "Human rights, gender and trade: A legal framework" for the publication

Trade and Gender: Opportunities and Challenges for Developing Countries which was launched in June 2004 in São Paolo, Brazil, during the eleventh United Nations Conference on Trade and Development (UNCTAD XI).

Right to adequate food

59. The Intergovernmental Working Group (IGWG) for the elaboration of a set of voluntary guidelines to support progressive realization of the right to adequate food in the context of national food security was established by the Council of the Food and Agriculture Organization of the United Nations (FAO). As one of the stakeholders specifically mentioned by the FAO Council in its resolution establishing IGWG, OHCHR actively participates in the sessions of IGWG and encourages the participation and contribution of other relevant United Nations human rights bodies. OHCHR is also represented in the Ad Hoc Unit established within FAO to provide support to the work of IGWG.

Human rights and poverty reduction

60. OHCHR issued draft guidelines on a human rights approach to poverty reduction strategies in September 2002. These guidelines were developed, at the request of the Committee on Economic, Social and Cultural Rights, to explore and articulate a human rights approach to poverty reduction. To complement the draft guidelines, OHCHR issued a publication entitled *Human Rights and Poverty Reduction: A Conceptual Framework* in March 2004. A summary of the draft guidelines in English, funded by the Swiss Development Cooperation, was also finalized in the first quarter of 2004 and was made available on the OHCHR web site. Additionally, an e-mail address (prsguidelines@ohchr.org) was created to collect comments and suggestions on the draft guidelines from development practitioners, including Governments, international financial institutions, United Nations agencies, donors, academics and civil society. A compilation of these comments will be prepared by the end of 2004 with a view to revising the draft guidelines.

Human rights and human trafficking

61. One of the most serious challenges facing human rights today is the crime of human trafficking, with large numbers of women and minors tricked, sold, or otherwise coerced into situations of exploitation, forced labour or slavery-like practices. By its very definition, trafficking constitutes a denial of all those fundamental rights that make for a life with dignity. Human trafficking is also a major development challenge for its root causes are embedded in key development issues including insecurity of food and livelihood, poverty, structural inequalities and migration. Yet, despite its overwhelming human rights and development dimensions, trafficking continues to be addressed as a "law and order" problem. Victims of cross-border trafficking are prosecuted as illegal aliens and undocumented workers rather than treated as victims of a crime. Women and young girls trafficked into the sex industry often do not receive any assistance and are often charged with the crime of prostitution instead.

62. The objective of the OHCHR anti-trafficking programme is for the human rights of the trafficked victim to be at the centre of all interventions. Following a two-pronged strategy, the programme focuses on prevention, in particular by examining the root causes of trafficking in the context of development, as well as protection of and assistance to victims. Through its coordination of the Intergovernmental Organization Contact Group on Trafficking and Human Smuggling, whose members are the International Labour Organization (ILO), the International Organization for Migration (IOM), the United Nations Children's Fund (UNICEF), the World Health Organization (WHO) and the NGO Caucus, OHCHR enhances its engagement in effective human rights-based advocacy on the issue of trafficking within the United Nations system, as well as its cooperation with civil society organizations. In 2004, OHCHR helped to organize three major panel discussions on trafficking and related issues, collaborated with UNICEF on studies on human trafficking in South-East Europe and the Caucasus, and partnered on the United Nations joint initiative against trafficking in Nepal at the programmatic level. OHCHR also undertook the production of multilevel advocacy tools and manuals based on its Recommended Principles and Guidelines on Human Rights and Human Trafficking (E/2002/68/Add.1), with the objective of building the rights-based capacity of anti-trafficking practitioners at the international, regional and national levels.

63. The past year marks a critical phase in the area of anti-trafficking work as crucial standards have been set. The United Nations Convention against Transnational Organized Crime came into force on December 2003 and the Protocol to Prevent, Suppress and Punish Trafficking in Person, Especially Women and Children (the Palermo Protocol) and the Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the Convention, have also entered into force. In addition, the International Convention for the Protection of the Rights of all Migrant Workers and Members of Their Families entered into force in July 2003. Upon the initiative of the Acting High Commissioner, the Commission on Human Rights at its sixtieth session, as noted above, established a new mandate of the Special Rapporteur on trafficking in human beings, especially women and children.

Human rights of women

64. During the reporting period, my Office has continued to undertake and to contribute to a number of activities of particular importance to women. We worked actively within inter-agency networks to contribute to the review by the Economic and Social Council of the implementation of its 1997 agreed conclusions on gender mainstreaming, which took place in July 2004. We also contributed to efforts to integrate gender perspectives more thoroughly in the humanitarian activities of the United Nations system and to implement Security Council resolution 1325 (2000) on women, peace and security, and in particular to the efforts made by the Secretary-General to address the unacceptable cases of involvement of United Nations and associated staff in sexual abuse and exploitation of those whom the international community is meant to assist and protect. The Office continues to work with the Division for the Advancement of Women on a number of joint activities under the annual joint work plan submitted to the Commission on the Status of Women and the Commission on Human Rights. We have also increased our collaboration with other agencies, and particularly with the United Nations

Development Fund for Women (UNIFEM), to assist States in the promotion and protection of the human rights of women at the national level, for example in Colombia or with regard to Iraq. The Office is committed to providing assistance to States in their efforts to implement the commitments undertaken 10 years ago in Cairo and Beijing. During the reporting period, it took the lead in reviewing progress made in the implementation of the Beijing Platform for Action with regard to the crucial area of concern focusing on human rights. It also addressed relevant issues in its activities dealing with gender mainstreaming, violence against women, trafficking and other contemporary forms of slavery, health and human rights, including HIV/AIDS, etc.

Rule of law and democracy

65. Since the last session of the General Assembly, there has been significant development in the work of OHCHR in the field of democracy and the rule of law. Emphasis was placed on building partnerships at both the headquarters and field levels, including work with peacekeeping operations, and on developing frameworks, policies and practical tools that could strengthen international and national efforts in this area.

66. With regard to transitional justice, OHCHR initiated a project to identify relevant rule of law policy tools that may be helpful for countries in transition. The project, "Rights-sensitive transitional justice in post-conflict and post-crisis countries" is tailored for United Nations staff in field operations as well as for transitional administrations. The primary output of the project is an operational manual identifying key policy tools for practical use by field missions and transitional administrations in post-conflict States. This and other rule of law tools are to be analysed at a workshop scheduled for September 2004.

67. With regard to the role of the courts in human rights protection, OHCHR began to develop specific programmes targeting judges, lawyers, prosecutors and law enforcement officials as key actors in advancing the application of human rights norms. In 2004, it undertook substantive dissemination activities, including regional workshops in relation to *Human Rights in the Administration of Justice: A Manual on Human Rights for Judges, Prosecutors and Lawyers*, a package aimed at introducing international human rights law and the relevant jurisprudence of universal and regional bodies and national courts to judges, prosecutors and lawyers. The package has been developed in cooperation with the International Bar Association, and the *Manual* published as No. 9 in the Professional Training Series.

68. OHCHR also contributed to the development of standards and practices in the area of administration of justice, with particular attention to impunity and reparations. An "independent study on best practices, including recommendations, to assist States in strengthening their domestic capacity to combat all aspects of impunity" was submitted to the Commission on Human Rights (E/CN.4/2004/88). Using the recommendations of the study as a point of departure, the Commission requested the Secretary-General to appoint an independent expert to update the Set of Principles for the protection and promotion of human rights through action to combat impunity.

69. A revised version of the "Basic principles and guidelines on the right to a remedy and reparation for victims of violations of international human rights and

humanitarian law" was prepared and discussed at a consultative meeting held in October 2003 (see E/CN.4/2004/57). The revised version will be the subject of a third consultative meeting in September 2004. OHCHR provides support to the work of the experts preparing the guidelines.

70. In the overall context of exceptional situations, OHCHR is paying particular attention to the question of human rights and terrorism. One of the main achievements of OHCHR in recent years was the completion of the "Digest of Jurisprudence of the United Nations and Regional Organizations on the Protection of Human Rights while Countering Terrorism". The Digest has been widely distributed, and it is foreseen that OHCHR will regularly update its contents. OHCHR also began providing assistance to the recently appointed independent expert to assist me to fulfil the mandate on the protection of human rights and fundamental freedoms while countering terrorism, contained in Commission resolution 2004/87.

71. OHCHR has been working to develop concepts and operational ideas to enhance the right of individuals to participate in the public affairs of their country. Pursuant to requests made by the Commission on Human Rights, OHCHR organized a seminar on the interdependence between democracy and human rights in November 2002, and is currently preparing another seminar on democracy and the rule of law, the results of which will be reported to the Commission at its sixty-first session.

Indigenous peoples

72. This year marks the end of the International Decade of the World's Indigenous People (1995-2004), of which I am Coordinator. A preliminary review of the International Decade (E/2004/82) was submitted to the Economic and Social Council. It provided a summary of activities undertaken by the Office and the United Nations since the beginning of the Decade. Despite many achievements, the effective protection and promotion of the rights of indigenous peoples remains a challenge. The Assembly has before it at its present session a recommendation transmitted by the Council in decision 2004/290 to declare a second international decade of the world's indigenous peoples. The Sub-Commission on the Promotion and Protection of Human Rights, in its resolution 2004/14, has invited me to organize, early in 2005, a consultation with the purpose of elaborating a preliminary draft programme of activities for a second decade. The Office is ready to continue playing an important role in the effective promotion and protection of the rights of indigenous peoples.

Minorities

73. Debates on minority issues in the Commission, the Sub-Commission and the latter's Working Group on Minorities have shed light on gaps in the protection of the rights of minorities. Proposals aimed at strengthening or creating mechanisms for the better protection of the rights of minorities have included the establishment of a special rapporteur or a special representative of the Secretary-General, the creation of a voluntary fund, and the proclamation of an international year. The Assembly has before it a recommendation by the Council that favourable

consideration be given to the establishment of a voluntary fund on minority-related activities (decision 2004/278). The purposes of the fund would be to facilitate the participation of minority representatives and experts from developing countries in the Working Group and its related activities and to contribute to the organization of other activities relating to the implementation of the rights of persons belonging to minorities. This voluntary fund may be considered as contributing to one of the objectives of the Secretary-General's reform proposals as referred to in action 19, which advocates improved modalities of interaction between the United Nations and civil society.

Human rights education

74. During the past year, OHCHR has strengthened its capacity to provide information, advice and training in the area of human rights education. Human rights activities conceived by local organizations have been developed, implemented and evaluated under the ACT (Assisting Communities Together) project. The feedback received from United Nations offices in the field and from grant recipients themselves demonstrated the positive impact of the project at the grass-roots level. OHCHR has also made available various training and support materials, including electronic versions of its "Human Rights Training Package for Prison Officials", "ABC — Teaching Human Rights — Practical Activities for Primary and Secondary Schools", and "Human Rights in the Administration of Justice — A Manual on Human Rights for Judges, Prosecutors and Lawyers". More than 300 national and local language versions of the Universal Declaration of Human Rights are available on the OHCHR web site, making it the only easily accessible multilanguage depository of the Universal Declaration in the world.

75. In its resolution 2004/71, the Commission recommended to the Economic and Social Council that it recommend to the Assembly that it proclaim a world programme for human rights education to begin on 1 January 2005. The Commission requested OHCHR, in cooperation with the United Nations Educational, Scientific and Cultural Organization (UNESCO) and other relevant governmental and non-governmental actors, to prepare a plan of action for the first phase (2005-2007) of the proposed world programme focusing on human rights education in primary and secondary schools. The plan of action is to be presented to the General Assembly in December 2004 for consideration and adoption. In May 2004, OHCHR and UNESCO established a joint strategy for the formulation of the plan of action and started implementation of the strategy, including the organization of an expert meeting in September 2004 in Geneva.

04-53365 (E) 221004